

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 3164

IN THE MATTER OF:

Served May 10, 1988

Application of V.I.P. TOURS to)
Amend Certificate No. 85)

Case No. AP-87-35

By application filed January 20, 1988, V.I.P. Tours ("V.I.P." or "applicant") seeks to amend Certificate of Public Convenience and Necessity No. 85 to include transportation of passengers, together with mail, express, and baggage in the same vehicle as passengers, in vehicles with a manufacturer's designed seating capacity of 30 passengers or less including the driver.

A public hearing was held on Tuesday, March 8, 1988, pursuant to Order No. 3119, served January 29, 1988, and incorporated herein by reference. The application is unopposed. A company witness and a public witness testified on applicant's behalf. At the hearing, the Administrative Law Judge directed that applicant file by March 18, 1988, (1) a statement of projected revenues and expenses for the year 1988 covering all operations encompassed by its proposal herein, and (2) ridership information verifying the operations performed heretofore under part (b) of its present certificate. That information was filed April 18, 1988. */

SUMMARY OF THE EVIDENCE

Applicant is a partnership comprised of three general partners, Jimmie Lee Davenport, James Hughes, and Luther Huff. Applicant currently holds Certificate No. 85, which authorizes the following transportation:

IRREGULAR ROUTES:

SPECIAL OPERATIONS

- (a) transporting schoolchildren between the
Georgetown Day School, Washington, D.C., on

*/ By motion filed March 25, 1988, applicant requested an extension of time to file information regarding passenger ridership until March 28, 1988. On April 6, 1988, applicant filed a motion to accept late-filed ridership data and to extend the brief date until April 18, 1988. Applicant's motion was granted by Order No. 3145, served April 8, 1988.

the one hand, and, on the other, points in the District of Columbia and Montgomery County, Md.; and

- (b) transporting passengers, restricted to lectured, round-trip sightseeing tours, between Mt. Vernon and Arlington National Cemetery, Va., and points in that part of the District of Columbia south of a line beginning at the junction of Constitution Avenue, N.W., and Rock Creek Parkway, N.W., thence along Constitution Avenue, N.W., to 17th Street, N.W., thence along 17th Street, N.W., to Pennsylvania Avenue, N.W., thence along Pennsylvania Avenue, N.W., to 10th Street, N.W., thence along 10th Street, N.W., to F Street, N.W., thence along F Street, N.W., to 9th Street, N.W., thence along 9th Street, N.W., to Pennsylvania Avenue, N.W., thence along Pennsylvania Avenue, N.W., to Constitution Avenue, N.W., thence along Constitution Avenue to its junction with 2nd Street, N.E.; and
- (c) transporting passengers, restricted to lectured, round-trip sightseeing tours, between Days Inn-Capital Centre, Capitol Heights, Md., on the one hand, and, on the other, Mt. Vernon and Arlington National Cemetery, Va., and points in that part of the District of Columbia south of a line beginning at the junction of Constitution Avenue, N.W., and Rock Creek Parkway, N.W., thence along Constitution Avenue, N.W., to 17th Street, N.W., thence along 17th Street, N.W., to Pennsylvania Avenue, N.W., thence along Pennsylvania Avenue, N.W., to 10th Street, N.W., thence along 10th Street, N.W., to F Street, N.W., thence along F Street, N.W., to 9th Street, N.W., thence along 9th Street, N.W., to Pennsylvania Avenue, N.W., thence along Pennsylvania Avenue, N.W., to Constitution Avenue, N.W., thence along Constitution Avenue to its junction with 2nd Street, N.E.

RESTRICTED in (a), (b), and (c) above to the transportation of passengers in vehicles with a manufacturer's designed seating capacity of 15 passengers or less (including the driver).

The essential purpose of this application is to modify the vehicle size limitation in the above-described certificate. No change is sought in that vehicle size limitation respecting the service covered by part (a) of the certificate. However, in the interest of operating economy and flexibility, V.I.P. here seeks a seating capacity of 30 passengers or less including the driver.

Mr. Jimmie Lee Davenport presented evidence on behalf of applicant at the hearing. V.I.P. has been operating under WMATC authority for six years and offers a variety of tours that range in duration from three and one-half hours to seven hours. Applicant is seeking expanded authority in order better to serve the needs of its patrons. The 15-passenger vans that V.I.P. currently uses are not considered large enough to accommodate efficiently the number of people seeking to use its services. For example, there are times when the number of passengers originating at the Days Inn-Capitol Centre exceed the seating capacity of its vans, thereby necessitating that its drivers make return trips to the hotel to pick up those passengers who could not be accommodated on the first trip. The Days Inn, which is served under part (c) of its certificate, is located in Capitol Heights, Md., approximately 12 miles from the major tourist attractions. The witness testified that transportation from the Days Inn to downtown can take as long as 30 minutes one-way during average traffic conditions.

V.I.P. intends to use the larger vehicle solely for sightseeing purposes and does not plan to use it to serve the Georgetown Day School. When questioned about projected need in the larger vehicle for trips that originate on the Mall pursuant to part (b) of its present certificate, Mr. Davenport testified that V.I.P. presently provides tours that originate on the Mall for between 30 and 40 passengers per day and plans to use the larger vehicle for its Mall operations.

For effective communication, the 30-passenger vehicle would be equipped with a citizen's band (CB) radio and a cellular phone. Applicant's drivers would also carry beepers. The vehicle would be placed under the same maintenance routine as applicant's 15-passenger vehicles. V.I.P. employs a certified mechanic to perform maintenance checks on the vehicles, including oil changes every 3,000 miles. New points, plugs, air and fuel filters, and PCV valves are installed every 10,000 miles. V.I.P.'s drivers check the fluids and cleanliness of the vehicles daily. The vehicles also are inspected by the District of Columbia annually. Applicant is prepared to obtain additional 30-passenger vehicles if the need arises. Applicant has no immediate plans to hire additional employees because two of the partners envision their children joining the business in the future. The proposed service and rates for the 30-passenger vehicle would be identical to those presently provided under Certificate No. 85.

Applicant's balance sheet as of June 30, 1987, lists current assets of \$1,200 in cash and fixed assets of \$14,200 after allowance for depreciation. Its current and long-term liabilities were

\$4,000 and \$8,000 respectively, and its earned surplus account amounted to \$3,400. Applicant's operating statement for the six-month period ended June 30, 1987, shows \$27,000 in WMATC operating revenue and \$18,400 in expenses, yielding a net operating income of \$8,600. Applicant projects \$87,000 in total WMATC revenues for the year ending December 31, 1988, with \$58,100 in estimated expenses, thereby yielding net operating income of \$28,900. This projection includes \$32,000 in revenue generated from V.I.P.'s first year of operations with the 30-passenger vehicle; expenses for that period allocated to the larger vehicle are estimated at \$29,800.

Ms. Jacqueline Brown testified in support of the application. Ms. Brown is employed at the Days Inn-Capital Centre as a desk clerk, auditor, and receptionist. She also sells tickets for V.I.P. tours. Ms. Brown was authorized to testify on behalf of the Days Inn. It is believed that applicant's proposed service would benefit the Days Inn. The hotel is several miles out of town and does not have any easy access to public transportation. Applicant's service provides hotel patrons the option of getting downtown without being forced to drive. Ms. Brown estimated that at least 25 hotel guests would need applicant's services on a daily basis during peak season (March through November). The proposed service in a larger vehicle would meet the transportation needs of hotel guests and would eliminate the inconvenience that guests now encounter by being forced to wait up to an hour for a return pick-up by V.I.P. Ms. Brown testified that hotel patrons speak very highly of applicant's present tour service.

As directed by the Administrative Law Judge, applicant submitted documentary evidence in support of its request to provide sightseeing service on the Mall using a 30-passenger vehicle. Applicant produced ticket-receipts showing the number of passengers originating on the Mall during representative periods in February, April, and August of 1987. On February 3, 1987, V.I.P. transported 28 passengers in its Mall operation. In the first week of April 1987, V.I.P.'s Mall operation accommodated 27 passengers on April 2, 25 on April 3, 28 on April 4, 22 on April 5, and 24 on April 6. In the first week of August 1987, V.I.P. is shown to have transported 25 passengers on August 1, 40 on August 2, 15 on August 4, and 28 on August 5.

DISCUSSIONS AND CONCLUSIONS

In determining whether to grant or amend a certificate of public convenience and necessity we look to Title II, Article XII, Section 4(b) of the Compact which requires that an applicant prove it is fit, willing, and able to perform the proposed transportation properly and to conform to the provisions of the Compact and the Commission's rules, regulations, and requirements thereunder. Section 4(b) further requires that the applicant prove that the proposed service is required by the public convenience and necessity.

Based on a review of the record, we find applicant capable of providing the proposed service and willing to conform to the Compact and the Commission's rules and regulations. Applicant has been certificated by WMATC to conduct lectured sightseeing tours within the Metropolitan District for six years. The proposed operations would be conducted in essentially the same manner as present operations. Additional equipment and personnel would be added if demand dictates. Applicant follows a regular maintenance program. Financial data introduced into the record by the applicant indicate adequate financing to sustain the proposed operations.

We further find that applicant has satisfied its burden of proving that the public convenience and necessity require the proposed service. The Commission has relied on the test enunciated in Pan-American Bus Lines Operations (1 MCC 190, 203 [1936]) when interpreting this provision of the Compact. The Pan-American test consists of three parts as follows:

. . . whether the new operation or service will serve a useful public purpose, responsive to a public demand or need; whether this purpose can and will be served as well by existing lines or carriers; and whether it can be served by applicant with the new operations or service proposed without endangering or impairing the operations of existing carriers contrary to the public interest.

The representative from the Days Inn clearly established the need for service in a larger vehicle from and to the hotel. Additionally, the documentary evidence submitted by applicant supports its proposed utilization of a 30-passenger vehicle for trips originating on the Mall. The evidence proves that applicant regularly operates at or over the capacity of its 15-passenger vehicles. Applicant transports at least two groups a day from the Mall to various tourist attractions within the Metropolitan District, with a daily average of 26 passengers. If the authority sought in the instant application were granted, applicant would be able, in periods of high demand, to transport a much greater number of passengers in a single larger vehicle, thereby obviating the present necessity of operating repeat trips in 15-passenger vans between the Days Inn and the Mall. Clearly, use of the 30-passenger vehicle would contribute to the efficiency and economy of its operation while, at the same time, enabling better service to the public.

Based upon the testimony of the witnesses and the evidence of record, we find that V.I.P. Tours has met its burden of proving that the proposed service will serve a useful purpose for which there is a demonstrated need. The evidence supports the conclusion that the public purpose found to exist has not been and will not be served as well by existing carriers.

No protests having been entered we conclude that applicant's proposed service will not materially affect the operations of existing carriers. The request to amend Certificate No. 85 will, therefore, be granted.

THEREFORE; IT IS ORDERED:

1. That V.I.P. Tours is hereby conditionally granted authority, contingent upon timely compliance with the terms of this order, to transport passengers as follows:

IRREGULAR ROUTES:

SPECIAL OPERATIONS

- (a) transporting passengers, restricted to lectured, round-trip sightseeing tours, between Mt. Vernon and Arlington National Cemetery, Va., and points in that part of the District of Columbia south of a line beginning at the junction of Constitution Avenue, N.W., and Rock Creek Parkway, N.W., thence along Constitution Avenue, N.W., to 17th Street, N.W., thence along 17th Street, N.W., to Pennsylvania Avenue, N.W., thence along Pennsylvania Avenue, N.W., to 10th Street, N.W., thence along 10th Street, N.W., to F Street, N.W., thence along F Street, N.W., to 9th Street, N.W., thence along 9th Street, N.W., to Pennsylvania Avenue, N.W., thence along Pennsylvania Avenue, N.W., to Constitution Avenue, N.W., thence along Constitution Avenue to its junction with 2nd Street, N.E.; and
- (b) transporting passengers, restricted to lectured, round-trip sightseeing tours, between Days Inn-Capitol Centre, Capitol Heights, Md., on the one hand, and, on the other, Mt. Vernon and Arlington National Cemetery, Va., and points in that part of the District of Columbia south of a line beginning at the junction of Constitution Avenue, N.W., and Rock Creek Parkway, N.W., thence along Constitution Avenue, N.W., to 17th Street, N.W., thence along 17th Street, N.W., to Pennsylvania Avenue, N.W., thence along Pennsylvania Avenue, N.W., to 10th Street, N.W., thence along 10th Street, N.W., to F Street, N.W., thence along F Street, N.W., to 9th Street, N.W., thence along 9th Street, N.W., to Pennsylvania Avenue, N.W., thence along Pennsylvania Avenue, N.W., to Constitution

Avenue, N.W., thence along Constitution Avenue to its junction with 2nd Street, N.E.

RESTRICTED in (a) and (b) above to the transportation of passengers in vehicles with a manufacturer's designed seating capacity of 30 passengers or less (including the driver).

2. That V.I.P. Tours is hereby directed to file with the Commission the following: (a) three copies of its WMATC Tariff No. 3; (b) a certificate of insurance in accordance with WMATC Regulation No. 62; (c) an affidavit of identification of vehicles pursuant to Regulation No. 67; and (d) an equipment list covering all vehicles to be used in WMATC certificated operations.

3. That unless V.I.P. Tours complies with the preceding requirements within 30 days from the service date of this order, or such additional time as the Commission may direct or allow, this application shall stand denied in its entirety, effective upon the expiration of the time for compliance.

4. That upon compliance with the conditions set forth in the preceding paragraphs, Certificate of Public Convenience and Necessity No. 85 will be reissued to V.I.P. Tours in the form and as worded in the Appendix to this order.

5. That the application, except to the extent granted herein, is denied.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:


William H. McGilvery
Executive Director

NO. 85

V.I.P. TOURS

DISTRICT HEIGHTS, MARYLAND

By Order Nos. 2447, 2483, 2504, 2837, and 3164 of the Washington Metropolitan Area Transit Commission issued August 9, October 7, December 2, 1983, March 17, 1986, and May 10, 1988;

AFTER DUE INVESTIGATION, it appearing that the above-named carrier is entitled to receive authority from this Commission to engage in the transportation of passengers within the Washington Metropolitan Area Transit District as a carrier, for the reasons and subject to the limitations set forth in Order No. 2447, 2483, 2504, 2837 and 3164;

THEREFORE, IT IS ORDERED that the said carrier is hereby granted this certificate of public convenience and necessity as evidence of the authority of the holder thereof to engage in transportation as a carrier by motor vehicle; subject, however, to such terms, conditions and limitations as are now, or may hereafter be, attached to the exercise of the privilege herein granted to the said carrier.

IT IS FURTHER ORDERED that the transportation service to be performed by the said carrier shall be as specified below:

IRREGULAR ROUTES:

SPECIAL OPERATIONS

- (a) transporting schoolchildren between the Georgetown Day School, Washington, D.C., on the one hand, and, on the other, points in the District of Columbia and Montgomery County, Md.; and
- (b) transporting passengers, restricted to lectured, round-trip sightseeing tours, between Mt. Vernon and Arlington National Cemetery, Va., and points in that part of the District of Columbia south of a line beginning at the junction of Constitution

Avenue, N.W., and Rock Creek Parkway, N.W., thence along Constitution Avenue, N.W., to 17th Street, N.W., thence along 17th Street, N.W., to Pennsylvania Avenue, N.W., thence along Pennsylvania Avenue, N.W., to 10th Street, N.W., thence along 10th Street, N.W., to F Street, N.W., thence along F Street, N.W., to 9th Street, N.W., thence along 9th Street, N.W., to Pennsylvania Avenue, N.W., thence along Pennsylvania Avenue, N.W., to Constitution Avenue, N.W., thence along Constitution Avenue to its junction with 2nd Street, N.E.; and

- (c) transporting passengers, restricted to lectured, round-trip sightseeing tours, between Days Inn-Capital Centre, Capitol Heights, Md., on the one hand, and, on the other, Mt. Vernon and Arlington National Cemetery, Va., and points in that part of the District of Columbia south of a line beginning at the junction of Constitution Avenue, N.W., and Rock Creek Parkway, N.W., thence along Constitution Avenue, N.W., to 17th Street, N.W., thence along 17th Street, N.W., to Pennsylvania Avenue, N.W., thence along Pennsylvania Avenue, N.W., to 10th Street, N.W., thence along 10th Street, N.W., to F Street, N.W., thence along F Street, N.W., to 9th Street, N.W., thence along 9th Street, N.W., to Pennsylvania Avenue, N.W., thence along Pennsylvania Avenue, N.W., to Constitution Avenue, N.W., thence along Constitution Avenue to its junction with 2nd Street, N.E.

RESTRICTED in (a) above to the transportation of passengers in vehicles with a manufacturer's designed seating capacity of 15 passengers or less (including the driver).

RESTRICTED in (b) and (c) above to the transportation of passengers in vehicles with a manufacturer's designed seating capacity of 30 passengers or less (including the driver).

AND IT IS FURTHER ORDERED and made a condition of this certificate that the holder thereof shall render reasonable, continuous and adequate service to the public in pursuance of the authority granted herein, and that failure to do so shall constitute sufficient grounds for suspension, change or revocation of the certificate.